

November 6, 2023

The Honorable Jessica G. L. Clarke  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**Via Electronic Filing**

Re: SeanPaul Reyes v. City of New York, 23-cv-06369

Your Honor,

Plaintiff SeanPaul Reyes submits this reply to agree with Defendant's proposed implementation plan, with one small proposed change.

Defendant proposes an additional stay until forty-eight hours after the Second Circuit has ruled on its motion for a stay. In the most recent case Plaintiff could find in which the Second Circuit considered an administrative stay motion pending appeal of a preliminary injunction, the administrative stay was ruled on nine days after the motion was filed. *See DiMartile v. Cuomo*, No. 12-cv-0859, 2021 WL 5071832, at \*2 (N.D.N.Y. Nov. 2, 2021), *aff'd sub nom. DiMartile v. Hochul*, 80 F.4th 443 (2d Cir. 2023). On that timeline, and presuming Defendant's stay motion is filed on November 7, Defendant would not read the first FINEST message until November 18, more than a day after the agreed-upon deadline.

One simple solution is to announce the fact that Defendant is seeking a stay in the FINEST message itself. That way, should the Second Circuit grant the stay, another FINEST message could be circulated letting officers know that the proposed change will not be going into effect.

The proposed FINEST message contains additions to Defendant's proposal in **bold** and proposed cuts in ~~strikeout~~.

*On November 2, 2023 a Judge in the Southern District of New York granted a preliminary injunction barring the enforcement of Administrative Guide Procedure*



*No. 304-21, Paragraph 7, which prohibited members of the public from recording police activity within Department facilities.*

***The Court has granted the City of New York until November 17, 2023 to comply with this order, and the City has asked an appeals court to allow the NYPD to enforce the Procedure until the appeal is resolved.***

~~*At this time,*~~ ***Unless the Appeals Court acts before November 17, on that day*** members of the public ~~*may*~~ ***will be permitted to*** record within the publicly accessible areas of Department facilities and they may not be directed to leave a publicly accessible area of a Department facility solely because they are recording.

*Members of the public who are recording may be directed to move if they are engaging in actions that physically interfere with law enforcement activity. They also may be directed to leave a facility due to conduct, other than recording, that violates the law.*

*Pursuant to this decision, commands are hereby directed to ~~immediately~~ remove **and store** all signs posted within police facilities that warn members of the public against recording **by November 17.***

*Any questions regarding these changes to guidelines may be directed to the Legal Bureau at-----.*

*To be read at ten (10) consecutive roll calls.*

Plaintiff otherwise agrees with Defendant's proposal.

Respectfully submitted,



Andrew Case  
LatinoJustice PRLDEF